

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CHAD HATTEN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Civil Action No. 07-330 Erie

**MEMORANDUM ORDER**

This petition for writ of habeas corpus was transferred from the U.S. District Court for the Southern District of Texas on December 3, 2007 and was referred to Chief United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Chief Magistrate Judge's Report and Recommendation [25], filed on February 4, 2009, recommends that Petitioner's motion [18] for summary judgment be denied, that the instant petition for writ of habeas corpus be dismissed as lacking subject matter jurisdiction, and that a certificate of appealability be denied.<sup>1</sup> Petitioner was allowed ten (10) days from the date of service in which to file objections and his objections [27] were filed on March 2, 2009. After de novo review of the petition and documents in the case, together with the Report and Recommendation and Petitioner's objections thereto, the following order is entered:

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<sup>1</sup> This civil proceeding was brought pursuant to 28 U.S.C. § 2241. Petitions filed under § 2241 are not governed by the certificate of appealability requirement set forth in 28 U.S.C. § 2253. See *United States v. Cepero*, 224 F.3d 256, 264-65 (3d Cir. 2000) (citing 28 U.S.C. § 2253(c)(1)(B)).

AND NOW, this 4th day of March, 2009;

IT IS ORDERED that the Petitioner's motion [19] for summary judgment be, and hereby is, DENIED and the instant petition for writ of habeas corpus be, and hereby is, DISMISSED for lack of subject matter jurisdiction.

The Report and Recommendation of Chief Magistrate Judge Baxter [25], filed on February 4, 2009, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin  
SEAN J. McLAUGHLIN  
United States District Judge

cm: Chad Hatten  
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Susan Paradise Baxter, Chief U.S. Magistrate Judge